

Remarks

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following remarks. Claims 1, 3-18, and 20-27 are pending in the application. Claims 1, 3-18, and 20-27 are rejected. No claims have been allowed. Claims 1, 20, 23, and 27 are independent. Claims 1, 20, 23, and 27 have been amended.

Cited Art

The Action cites:

Meyer et al., U.S. Patent Publication No. 2001/0031066 (hereinafter “Meyer”);

Fredlund et al., U.S. Patent No. 6,111,950 (hereinafter “Fredlund”); and

Both, U.S. Patent No. 7,412,449 (hereinafter “Both”).

Rejections of Claims 1, 6-13, 15-18, and 27 under 35 U.S.C. § 103(a)

The Action rejects claims 1, 6-13, 15-18, and 27 under 35 U.S.C. § 103(a) as unpatentable over Meyer in view of Fredlund. However, Meyer and Fredlund, taken either separately or in combination, fail to teach or suggest each and every element of the claims. As such, the Action fails to establish a *prima facie* case of obviousness for these claims. Accordingly, Applicants request that the rejections be withdrawn. Claims 1 and 27 are independent.

Claims 1, 6-13, and 15-18

Claim 1 recites:

obtaining graphical icon data *from* the software application;
applying an identifier generation algorithm to . . . the graphical icon data
obtained from the software application;

[Emphasis added.] For example, the Application describes the use of icon data with respect to Figures 3 and 4:

The application-specific distinct binary data block 310 is data associated with application for which the identifier is to be generated. . . . *For example, icon data can be extracted from the application binary or obtained from an external icon file.*

. . .
Because applications often have several different icons associated with them, not all of the icon data need be used to form the application-specific block

of data in a system such as the one shown in Figure 4. For example, if an application binary contains 12 different icons of different sizes or resolutions, some subset of the icons (e.g., icons that are distinctive and unlikely to change in revisions to the application) can be used to form the block of data. As another example, if one or more external icon files are associated with the application, data in the icon files can be omitted from the application-specific data block, or can be used instead of or in combination with icon data in the application binary.

Other application-specific data also can be used. For example, a hashing algorithm could be applied to a combination of icon data and some other application-specific data, such as a shortcut name or other data that is not likely to change after the application has been installed.

[Application, at page 8, line 2 to page 10, line 8; emphasis added.] In its rejection of claim 1, the Action acknowledges that Meyer does not teach or suggest the above-quoted language of claim 1. [Action, at § 3, page 3.] However, the Action finds such teachings in Fredlund. [*Id.*] Applicants respectfully disagree.

Fredlund's teaching of images that must have an identifier associated with them before they can be recognized by an application teaches away from "obtaining graphical icon data from the software application" and "applying an identifier generation algorithm to . . . the graphical icon data obtained from the software application" as recited in claim 1. In its rejection of this language from claim 1, the Action cites to portions of the Application which describe a scheme whereby particular images are marked with an identifier to allow an application to access them. Thus, in the cited portion of the Summary of the Invention, Fredlund describes how the application checks all images before processing:

The application is limited to interacting with only the images on the disk. *This interaction limitation can be accomplished by including in or with the images a unique identifier or signature that identifies that a particular image is one that can be processed by the application. . . . The application checks the signature of any new image before proceeding to process the image.*

[Fredlund, at column 2, lines 44-55; emphasis added.] Similarly, in the Detailed Description, at a passage also cited in the Action, Fredlund describes how the application is configured such that it can only access an image if that image *has already had an identifier applied to it*:

The modified application retrieves 134 the selected image into computer memory (RAM) and compares the color/density values at the designated image locations with those in the table. *The application then determines 136 whether a match has resulted, if not the application program is conventionally disabled by prohibiting reading or prohibiting functioning of the application.* If a match has occurred the application program is enabled for all of its functions for the particular image that is currently stored in the computer memory. . . .

The present invention has been described with respect to limiting an application to processing images on the same media as the application by providing a unique signature recognizable by the application in each image.

There are other more or less sophisticated ways of providing this limitation.

[Fredlund at column 5, line 46-63.] The rest of the cited passage goes on to describe various ways for the application to create image identifiers and for the application to limit access to images with proper identifiers.

Regardless of the method by which Fredlund's application is limited or checks identifiers, the passages clearly demonstrate that this application only interacts with images *after checking identifiers associated with those images*. Indeed, it must check first because it has to prevent itself (or be prevented) from interacting if there is no proper identifier. This means that *before* the application can associate itself with an image, *the image must already have an identifier applied to it*.

Applicants respectfully argue that, because the methods of Fredlund require the identifier to be created before interaction with the application, Fredlund does not teach or suggest the language of claim 1 quoted above. As demonstrated above, *there is no association in Fredlund between the application and an image until after an identifier has already been created*. Thus, even if the images in Fredlund were considered to be icons for Fredlund's software application, this icon data could still only be "obtain[ed] . . . from the software application" *after* an identifier was created for that icon data. Therefore, since identifiers have to be generated before icons can be obtained from an application, any identifier-generation techniques of Fredlund must work on images before they are associated with an application. Therefore, Fredlund cannot teach or suggest "applying an identifier generation algorithm to the graphical icon data obtained *from* the software application" as recited in claim 1.

For at least these reasons, Fredlund does not teach or suggest at least the above-quoted language of claim 1. And as the Action notes, Meyer also does not teach or suggest this language. Therefore, neither Meyer nor Fredlund, taken either separately or in combination, appear to teach or suggest the above-quoted language of claim 1. Claims 6-13 and 15-18 each depend from claim 1 and thus also recite the above-quoted language of claim 1. Applicants will not further belabor the patentability of dependent claims 6-13 and 15-18. Applicants respectfully request that the rejection of claims 1, 6-13, and 15-18 be withdrawn and that the claims be allowed.

Claim 27

Claim 27 recites:

means for obtaining icon data from a software application;

...

wherein the creating is based on the icon data obtained from the software application, and the creating comprises applying a hashing algorithm to the icon data obtained from the software application. . . .

The Action rejects claim 27 “using the same prior art and rationale” as in the rejection of claim 1. [Action, at § 3, page 5.] Thus, for at least the reasons described above with respect to claim 1, neither Meyer nor Fredlund teaches or suggests the above-quoted language of claim 27. Applicants respectfully request that the rejection of claim 27 be withdrawn and the claim be allowed.

Rejections of Claims 20-26 under 35 U.S.C. § 103(a)

The Action rejects claims 20-26 under 35 U.S.C. § 103(a) as unpatentable over Meyer in view of Fredlund and further in view of Both. However, Meyer, Fredlund, and Both, taken either separately or in combination, fail to teach or suggest each and every element of the claims. As such, the Action fails to establish a *prima facie* case of obviousness for these claims. Accordingly, Applicants request that the rejections be withdrawn. Claims 20 and 23 are independent.

Claims 20-22

Claim 20 recites:

applying a hashing algorithm to . . . icon data associated with the software application and . . .

generating a hash value based on the applying of the hashing algorithm to the distinct application binary data,

[Emphasis added.] The Action argues that Both describes hashing executable file names, as well as user and program-initiated file object retrieval. [Action at § 5, page 8.] However, for all other aspects of the rejection of claim 20, the Action rejects the claim over “the same prior art and rationale” as in the rejection of claims 1. [*Id.*] Thus, for at least the reasons described above with respect to claim 1, neither Meyer nor Fredlund teaches or suggests, for example, the

“applying a hashing algorithm to . . . icon data associated with the software application” language of claim 20. Applicants further fail to find relevant disclosure for the claim language in Both. As such, Meyer, Fredlund, and Both, taken either separately or in combination, fail to teach or suggest each and every element of claim 20.

Claims 21 and 22 each depend from claim 20 and thus also recite the above-quoted language of claim 20. Applicants will not further belabor the patentability of dependent claims 21 and 22. Applicants respectfully request that the rejection of claims 20-22 be withdrawn and that the claims be allowed.

Claims 23-26

Claim 23 recites:

obtaining an application identifier for a software application, where the application identifier is a hash value generated by a hashing algorithm, *the hash value based on distinct application binary data comprising graphical icon data associated with the software application;*

[Emphasis added.] The Action rejects claim 23 “using the same prior art and rationale” as in the rejections of claims 1 and 20. [Action, at § 8, page 9.] Thus, for at least the reasons described above with respect to claims 1 and 20, neither Meyer, Fredlund, nor Both teaches or suggests, for example, the above-emphasized language of claim 23. Meyer, Fredlund, and Both, taken either separately or in combination, therefore fail to teach or suggest each and every element of claim 23.

Claims 24-26 each depend from claim 23 and thus also recite the above-quoted language of claim 23. Applicants will not further belabor the patentability of dependent claims 24-26. Applicants respectfully request that the rejection of claims 23-26 be withdrawn and that the claims be allowed.

Rejections of Other Dependent Claims under 35 U.S.C. § 103(a)

Claims 3-5

The Action rejects claims 3-5 under 35 U.S.C. § 103(a) as unpatentable over Meyer in view of Fredlund and further in view of official notice. Claims 3-5 each depend from independent claim 1. However, for at least the reasons stated above, Meyer and Fredlund, taken

either separately or in combination, fail to teach or suggest each and every element of claims. Furthermore, applicants do not find relevant teaching in the official notice of the Action, which is focused on aspects of hashing and application binaries. Therefore, Applicants respectfully request that the rejection of claims 3-5 be withdrawn and that the claims be allowed.

Claim 14

The Action rejects claim 14 under 35 U.S.C § 103(a) as unpatentable over Meyer in view of Fredlund and further in view of Both. Claim 14 depend from independent claim 1. However, for at least the reasons stated above, Meyer, Fredlund, and Both, taken either separately or in combination, fail to teach or suggest each and every element of claims. Therefore, Applicants respectfully request that the rejection of claim 14 be withdrawn and that the claim be allowed.

Interview Request

If the claims are not found by the Examiner to be allowable, the Examiner is requested to call the undersigned attorney to set up an interview to discuss this application.

Conclusion

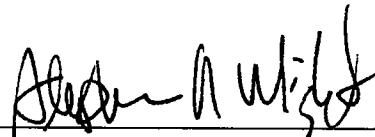
The claims in their present form should be allowable. Such action is respectfully requested.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

By


Stephen A. Wight
Registration No. 37,759